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**TERESA AGUIRRE**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

TERESA AGUIRRE,

Plaintiff,

vs.

STATE OF CALIFORNIA; DEBRA  
MILLS; CARIANNE HUSS; and DOES  
1 through 5,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES FOR  
FMLA AND CFRA INTERFERENCE  
AND RETALIATION AND DEMAND  
FOR JURY TRIAL**

**THE PARTIES**

1. Plaintiff TERESA AGUIRRE (hereafter “Ms. Aguirre” or “Plaintiff”) is an adult woman.

2. Defendant State of California is an employer subject to suit under the Family Medical Leave Act (“FMLA”) and the California Family Rights Act (“CFRA”).

3. Defendant Debra Mills (“Mills”) is an individual subject to suit under the FMLA in that at all times herein mentioned she was an Employment Program Manager II and Ms. Aguirre’s Cluster Manager.

5. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES 1 through 5 and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Each of these fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and Plaintiff's injuries as herein alleged were proximately caused by the aforementioned defendants.

## JURISDICTION

6. This case is brought pursuant to the Family Medical Leave Act, 29 USC § 2601 et seq., and the California Family Rights Act, Gov. C. § 12945.2.

7. Plaintiff has met her administrative requirements under CRFA.

### INTRADISTRICT ASSIGNMENT

8. The events giving rise to this litigation occurred within the jurisdiction of the United States District Court for the Northern District of California, which jurisdiction includes Lake County, where Ms. Aguirre lives and works.

## GENERAL ALLEGATIONS

9. Ms. Aguirre has a long history of exemplary performance with Defendant State of California's EDD Department, most recently in the position of Employment Development Specialist I.

10. In approximately March 2016 Ms. Aguirre's father became seriously ill. Thereafter, Ms. Aguirre applied for and was granted a reduced work schedule pursuant to the FMLA and/or CFRA in order to care for her father. Specifically, she

1 was to work Monday through Friday from 12:00 pm to 5:00 pm. This allowed her to  
2 care for her father each morning at his house in Lakeport until she was relieved by  
3 another caretaker. Although at the time she requested leave Ms. Aguirre was  
4 alternating work between Defendant's Marysville and Lakeport offices, Defendant  
5 was aware that in order to provide her father care for the entire morning until she  
6 was relieved by another caretaker, Ms. Aguirre needed to work exclusively out of  
7 Defendant's local Lakeport office as she could not both take care of her father until  
8 she was relieved and make the two hour commute to Marysville in time to report to  
9 work by 12:00 pm. Despite this knowledge, almost immediately upon Ms. Aguirre  
10 being granted leave Defendants began to pressure her to find a caretaker that could  
11 relieve her earlier in the day so that she could make the two hour commute to  
12 Marysville. Defendants further increased the pressure on Ms. Aguirre to get her to  
13 curtail or abandon her entitlement to leave by hyperscrutinizing her work and  
14 harassing her about why it was that she couldn't get another family member to take  
15 care of her father. The hyperscrutiny and hostility to which Ms. Aguirre was  
16 subjected culminated with Defendants' directive, in approximately May 2016 that  
17 she must resume work in the Marysville office.

18 11. In requiring Ms. Aguirre to report to work at Defendants' Marysville office,  
19 which was an approximately two hour commute each way from her home, instead of  
20 the Lakeport office just a couple of miles away, Defendants effectively denied Ms.  
21 Aguirre the full amount of leave to which she was entitled each day to care for her  
22 father. Defendants demanded that Ms. Aguirre report to the Marysville office  
23 instead of Lakeport knowing full well that they were placing her in the untenable  
24 position of having to leave her father unattended for approximately two hours  
25 before her replacement could arrive. The nature of Ms. Aguirre's work as an  
26 Employment Development Specialist was such that she could perform her duties  
27 out of either the Lakeport or Marysville offices, as evidenced by the fact that she  
28

1 was doing just that before her request for FMLA/CFRA leave. Defendants' conduct  
 2 in denying and/or interfering with her right to take leave, the hostility and pressure  
 3 that they imposed on Ms. Aguirre for attempting to exercise those rights, and the  
 4 hyperscrutiny of her work caused Ms. Aguirre extreme anguish and stress such that  
 5 on June 1, 2016, she had no choice but to request a medical leave of absence due to  
 6 her own condition.

7 **FIRST CAUSE OF ACTION**  
 8 **VIOLATION OF THE FAMILY MEDICAL LEAVE ACT – INTERFERENCE**  
 9 **AND/OR RETALIATION**  
 10 **(All Defendants)**

11 12. Plaintiff realleges and incorporates paragraphs 1 through 11,  
 12 inclusive, as though fully set forth herein.

13 13. Defendants' conduct, described above, constitutes violations of the  
 14 FMLA in that Defendants interfered with Plaintiff's entitlement to FMLA leave  
 15 and/or subjected her to retaliation for having exercised her right to take such leave.

16 14. As a proximate result of Defendants' interference and/or retaliation, as  
 17 alleged above, Plaintiff has been harmed in that Plaintiff has suffered the loss of  
 18 wages, benefits, and additional amounts of money Plaintiff would have received if  
 19 Plaintiff had not been subject to said interference and/or retaliation. As a result of  
 20 such interference, retaliation and consequent harm, Plaintiff has suffered damages  
 21 in an amount according to proof.

22 **SECOND CAUSE OF ACTION**  
 23 **VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT-INTERFERENCE**  
 24 **AND/OR RETALIATION**  
 25 **(Defendant State of California)**

26 15. Plaintiff realleges and incorporates paragraphs 1 through 11,  
 27 inclusive, as though fully set forth herein.

1           16. Defendant's conduct described above constitutes violations of the  
2 CFRA in that Defendant interfered with Plaintiff's entitlement to CFRA leave  
3 and/or subjected her to retaliation for having exercised her right to take such leave.

4           17. As a proximate result of Defendant's interference and/or retaliation, as  
5 alleged above, Plaintiff has been harmed in that Plaintiff has suffered the loss of  
6 wages, benefits, and additional amounts of money Plaintiff would have received if  
7 Plaintiff had not been subject to said interference and/or retaliation. As a result of  
8 such interference, retaliation and consequent harm, Plaintiff has suffered damages  
9 in an amount according to proof.

10           18. As a further proximate result of Defendant's interference and  
11 retaliation, as alleged above, Plaintiff has been harmed in that Plaintiff has  
12 suffered humiliation, mental anguish, and emotional and physical distress. As a  
13 result of such retaliation and consequent harm, Plaintiff has suffered damages in  
14 an amount according to proof.

15  
16 WHEREFORE, Plaintiff prays for judgment as follows:

- 17           1. For back pay, front pay, and other monetary relief according to proof;  
18           2. For general damages according to proof;  
19           3. For liquidated damages in an amount equal to the entire award of lost  
20 wages, benefits, etc., and interest;  
21           4. For injunctive relief;  
22           5. For interest on the sum of damages awarded according to proof;  
23           6. For reasonable attorney's fees and costs, including expert witness fees,  
24 pursuant to any and all such authority as is proper;  
25           7. For costs of suit herein incurred; and  
26           8. For such other and further relief as the court deems proper.

Dated: September 28, 2016

KOCHAN & STEPHENSON

/s/ Deborah Kochan

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Deborah Kochan  
Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial for each and every claim for which she has a right to a jury trial.

Dated: September 28, 2016

KOCHAN & STEPHENSON

/s/ Deborah Kochan

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Deborah Kochan  
Attorneys for Plaintiff